(5)
CF6002

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

Writ Petition No. 2380 /2003.

PETITIONERS : 1. Smt. Manmohan Kaur W/o Manohar Singh Channa, aged about 56 years resident of Raipur Naka, Bilaspur (C.G.).

2. Smt. Sweta Yadav W/o Umesh Yadav aged 27 years, resident of Link Road, Raipur Naka, Bilaspur (C.G.)

3. Smt. Lalsa Devi Sharma W/o Janesh Sharma, aged 45 years, resident of Yadunandan Nagar, Tifra, Bilaspur (C.G.).

4. Shri Ganesh Shukla S/o late Mathura Prasad Shukla, aged 27 years, resident of Yadunandan Nagar, Tifra, Bilaspur (C.G.).

5. Smt. Meena Gupta W/o Vijay Gupta, aged 32 years, resident of Yadav Nagar, Tifra, Bilaspur (C.G.).

6. Shri Shailendra Dubey S/o Vishwa Nath Dubey, aged about 33 years, resident of Brahman Pura, Sihora, Distt. Jabalpur presently residing at Gitanjli Nagar, Bilaspur (C.G.

All have land at Yadunandan Nagar, Tifra, Bilaspur (C.G.).

P. R No. 2380/03
Presented by Shri A.S. Lok Pgt.
dated 06.06.03

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V e r s u s

RESPONDENTS 1. State of Chhattisgarh
Through : Collector, Bilaspur (C.G.)

2. Chief Executive Officer,
Bilaspur Development Authority
Vikas Bhawan, Bilaspur (C.G.).

....contd....

(6)

3. Sub Registrar (Registration)
Composite Building
Opposite Collectorate, Bilaspur
Distt. Bilaspur (C.G.).

4. Joint Director,
Town & Country Planning,
Bilaspur (C.G.).

5. Commissioner,
Municipal Corporation,
Bilaspur (C.G.).

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA :

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 2780/03 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

19-8-2004

Smt. Mala Dubey, counsel for the petitioners.

Shri N.K. Agrawal, Deputy Advocate General for respondents 1, 3 and 4.

Shri Sanjay K. Agrawal, counsel for respondent No.5.

The petitioners have preferred this writ petition under Articles 226/227 of the Constitution of India alleging that they are local inhabitants residing at Yadunandan Nagar, Bilaspur and owners of the residential plots of Khasra Nos. 250 & 251, Patwari Halka No.23, Village Gram Panchayat Tifra, Block Bilha, District Bilaspur. In para 5.2 of the petition it has been mentioned that Manmohan Kaur had purchased the plot of Khasra No.250/2 on 16-6-1986. On 17-6-2001, another petitioner namely, Smt. Sweta Yadav had purchased land, which is also a part of Khasra No.250/1, from Smt. Manmohan Kaur through a registered sale deed in which no open land belonging to the B.D.A./Municipal Corporation, Bilaspur in front of the plot of Sweta Yadav is adjoining to the road. The respondents had committed serious error of law while obtaining advance amount from the purchasers for construction over the land of the public street which is in front of the house of the petitioners.

In para 5.8 of the petition it has been mentioned that respondents have no authority under the law to sell the remaining

GRPRJ—FS/350—12/2000—50,000.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 2380/09 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

पक्षों का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

portion of the land which is part of the public street. The enjoyment of the petitioners will be adversely affected if the open adjoining land is totally closed by constructing small shops in front of the land of the petitioners. As such, the petitioners will be deprived from their enjoyment which they are enjoying since beginning. It has been prayed that respondents be directed not to handover the possession of the land to the purchasers as mentioned in Annexure-P/1 and the petitioners may be permitted to allow their enjoyment in the open land without any obstruction.

Return has been filed on behalf of respondent No.5. It is mentioned in para-3 of the return that the petitioners are challenging the allotment of Plot Nos.50-a, 50-b, 50-c and 50-d in revised lay out plan of Yadunandan Nagar, Tifra, Bilaspur and lay out has been sanctioned by respondent No.4, Joint Director, Town and Country Planning, Bilaspur for the aforesaid plots. Copy of the revised lay out plan of Yadunandan Nagar, Tifra, Bilaspur is annexed as Annexure R-5/1, which clearly demonstrates that the lay out has been sanctioned for plot Nos.50-a to 50-d by Joint Director, Town and Country Planning, Bilaspur. It is pertinent to mention here that in front of the aforesaid plots, 40 feet road has been proposed. The petition of the petitioners suffers from delay and latches. It has further been mentioned that the Municipal Corporation, Bilaspur has

GR PRJ—FS/350—12/2000—50,000.

(100)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 2770/07 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —9—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

allotted plots to five purchasers in accordance with lay out sanctioned and no part of Public Street is sold by Corporation.

I have heard the learned counsel for the parties.

The contention raised by the counsel for the petitioners and denied by counsel for respondent No.5 is that the petitioners' claim that the land which has been sold to five persons by the Municipal Corporation is part of street and if the same is allowed to be used by the persons to whom it has been sold, then the passage of the petitioners will be blocked, whereas, reply of the respondent Corporation is that it is not part of street and the block has been demarcated as per the plan sanctioned by respondent No.4, Joint Director, as such this petition involves the disputed question of facts which can be decided only after recording the evidence of the parties, and which cannot be done under writ jurisdiction. Therefore, proper remedy for the petitioners was to approach the Civil Court under civil jurisdiction and not to this Court under extraordinary jurisdiction.

In view of the above, I am of the opinion that this petition is not maintainable for the reason that disputed question of facts is involved in the petition, as such the petition is dismissed.

Sd/-
L.C.BHADOO
Judge

Barve

[पीछे देखिये